

REMARKS

Reconsideration of the present application is respectfully requested for the reasons that follow.

Objections to the Specification

The "Cross-References to Related Applications" section was included on page 2 of the Preliminary Amendment filed September 19, 2005, which the Examiner noted was missing from the USPTO file wrapper database. A copy of that Preliminary Amendment is attached so that the Examiner can amend the specification to properly include this section.

Claim Objections

With regard to the Examiner's objection to claim 1, it is noted that the typographical error has been corrected and the Markush language has been removed. With regard to the Examiner's objection to claims 2 and 3, it is noted that the typographical errors have been corrected. With regard to the Examiner's objection to claim 5, it is noted that the chemical structure has been repaired. With regard to the Examiner's objection to claim 12, it is noted that the chemical structure has been repaired and the terminal punctuation has been added. With respect to the Examiner's objection to claims 13 and 14, it is noted that the typographical errors have been corrected.

Rejections under 35 USC § 112, first paragraph

Claims 8-11 are rejected under 35 U.S.C. § 112, first paragraph, for failure to enable the full breadth of the claims. Specifically, the Examiner argues that the specification is enabled for the inhibition of the growth of human lung carcinoma by a single active ingredient, but does not reasonably provide enablement for the treatment of any other neoplastic disease condition or for the administration of a pharmaceutical composition wherein there is more than one active ingredient. The Examiner cites the breadth of the claims, the nature of the invention, the state of the prior art and the level of predictability in the art in support of this argument.

In response to this rejection, the Applicant will submit a Declaration with additional data which demonstrates that one of skill in the art is enabled by information in the specification to use the nucleotide derivative to treat breast, prostate, ovarian, pancreatic and cervical tumors. Furthermore, the Declaration will establish that the substituents on the glycerol group have only a minor influence on the function of the nucleotide derivative, and thus one of skill in the art is able to identify proper substituents without compromising the efficacy of the nucleotide derivative. With respect to the Examiner's argument that the specification is not enabling for the treatment of a neoplastic disease with more than one active ingredient, it is noted that it is conventional to administer combinations of different anti-cancer agents with different modes of action for the treatment of neoplastic diseases, and one of skill in the art would need little guidance to do so properly. Evidence to this effect will also be provided in the Declaration.

Rejections under 35 USC § 112, second paragraph

Claims 8, and 11-12 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claim 8 has been rejected for the use of the phrase "at least one" which, the Examiner argues, renders the claim indefinite. Claim 8 has been amended to remove that phrase, however the applicant submits that removing this phrase does not change the construction of claim 8. Because of the use of "comprising," the claim language encompasses a combination of a pharmaceutical composition in claim 1 with a pharmaceutically acceptable adjuvant or vehicle, and any other compound, which would include other species of the compound in claim 1.

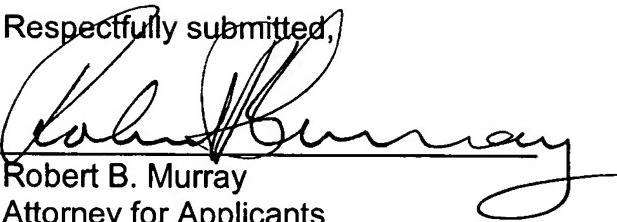
Claim 11 has been rejected for the use of the phrase "other anticancer agents" which, the Examiner argues, renders the claim indefinite. As discussed above, it is conventional to administer combinations of different anti-cancer agents with different modes of action for the treatment of neoplastic diseases, and one of skill in the art would need little guidance to do so properly. Evidence to this effect is provided in the Declaration. The Declaration thus obviates this claim rejection.

Claim 12 has been rejected for the use of the phrases "hindered potassium base," "conditions to provide ... substitution reaction," "activated form," and "conditions that provide for aminolysis." Claims 12, 14 and 17 have been amended to overcome these rejections. Claim 13 has been withdrawn as that subject matter has been included in amended claim 12. Claim 20 has been added.

In view of the foregoing, it is submitted that the present application is now in condition for allowance. Reconsideration and allowance of the pending claims are requested. The Director is authorized to charge any fees or credit any overpayment to Deposit Account No. 02-2135.

Respectfully submitted,

By



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